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**FEB 24 2006**  
**OFFICE OF PETITIONS**

In re Application of	:	
Chen et al.	:	
Application No. 10/669,341	:	DECISION ON PETITION
Filed: September 25, 2003	:	
Title: Slidable Windshield Wiper For	:	
Automobiles	:	

This is a decision on the petition under 37 CFR 1.181, filed October 28, 2005, and resubmitted on November 1, 2005, requesting that the Office withdraw the holding of abandonment in the above-identified application.

On March 21, 2005, the Office mailed a final Office action, which set a three (3) month shortened statutory period for reply. In response, on June 10, 2005, applicants filed a continuation application under 37 CFR 1.62<sup>1</sup> ("FWC") based on the above-identified application with a preliminary amendment and paid a \$500.00 filing fee. Despite the filing of the reply, the Office mailed a Notice of Abandonment on October 4, 2005.

The Office notes that the filing of the application under former 37 CFR 1.62 was improper because the above-identified application was filed on or after December 1, 1997. In the event that an applicant files a request for a FWC of a utility or plant application that was filed on or after May 29, 2000, the Office will automatically treat the improper FWC as a request for continued examination of the prior application ("RCE") under 37 CFR 1.114. See MPEP 201.06(b), 706.07(h).

A review of the record indicates that the Office received the timely response to the final Office action on June 10, 2005; however, the Office did not treat the improper FWC as a request for a RCE pursuant to Section 201.06(b) of the MPEP. Rather, the Office mailed a Notice of Abandonment, which indicated that applicants failed to file a proper and timely reply to the final Office action of March 21, 2005.

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<sup>1</sup> 37 CFR 1.62 was deleted from Title 37 of the Code of Federal Regulation effective December 1, 1997. See Notice of Final Rule, 62 Fed. Reg. 53132 (October 10, 1997).

The Office is treating the improper FWC, filed on June 10, 2005, as a timely response to the final Office action in the form of a request for a RCE. The preliminary amendment submitted on June 10, 2005, is an appropriate submission under 37 CFR 1.114. Accordingly, the petition is granted. The Notice of Abandonment was sent in error and is hereby withdrawn.

The Office finance records indicate that applicants paid a \$500.00 fee for the filing of the FWC. However, applicants are only required to pay a \$395.00 RCE fee. Accordingly, applicants will be refunded the balance of \$105.00 by treasury check.

This matter will be referred to Technology Center Art Unit 1744 for processing of the RCE and the submission in response to the final Office action of March 21, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination process should be directed to the Technology Center.

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